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May 6, 2015

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RE: *In Re: Terrorist Attacks on September 11, 2001, 03 MDL 1570 (GBD) (FM)*

Dear Counsel:

We have reviewed the production of documents from Yassin Abdullah Kadi (Kadi) and believe there are gaps in the production that need to be addressed. In addition, the documents produced to this point have revealed the need for some additional requests, which we are serving contemporaneously. With respect to the production to date, we have outlined the most significant gaps in various categories below, and request that you supplement the previous production accordingly.

Bank Records

For purposes of clarifying the scope of the records we would expect to be included in the production for any bank accounts, we broadly classify "bank records" into three general categories: bank statements; client authorizations; and wire transfers or similar records indicating a transaction has taken place. The attached collection of records relating to a financial transfer of Jan 10, 1992 includes representative documents from each of these categories, and fairly reflects the scope of documents that should be provided for all relevant accounts and transactions. See Example of January 10, 1992 Bank Statement and Back-Up.

Turning initially to the Swiss bank accounts, it appears that the records included in the production came entirely from the Swiss investigation of Kadi. The apparent reliance solely on the Swiss investigation in responding to plaintiffs' document requests is problematic. Under the Federal Rules of Civil Procedure, Kadi is obligated to procure and produce all documents within

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his possession, custody, or control, and the Swiss investigation likely does not encompass all such records. For this reason, Kadi should have undertaken steps to secure and preserve all records relating to the relevant bank accounts directly from *all* of the financial institutions and account holders themselves (to include records maintained personally by Kadi and by his various companies).¹ For each of the institutions and accounts in question, we would request that you clarify what steps Kadi has undertaken to do so, and, to the extent such efforts have been undertaken, explain the results of those efforts.

Even within the records from the Swiss investigation, there are several significant gaps in the production. By way of illustration, we offer the following two examples:

- In the Faisal Finance Account # 10257, belonging to Caravan Development Group, there seems to be no production of bank statements or back-up documentation for the period from the opening of the account in July, 1994 until January, 1997.
- For the Faisal Finance Account #10451, belonging to Cavallo, the statements and back-up for the months of November and December, 1998 are missing.

Similar gaps exist with respect to other of the bank accounts for which partial productions have been provided. These gaps are surveyed in the attached spreadsheet, titled Yassin Kadi Related Accounts in Document Production. For your convenience, we have attached a PDF as well as an Excel file. Obviously, to the extent you believe that we have overlooked some of the records during our review of the production, we are happy to revisit any designations you believe to be incorrect.

For the requested records from banks other than Swiss institutions, the production is even less complete. In fact, for banks such as al Shamal Islamic Bank of Sudan, the production is essentially non-existent. Similarly, little of substance has been provided in relation to Albanian institutions and accounts.

Bosnian Banks

Requests # 82-87 relate to the Bosnian Banks (Depozitna and Vakufska). While less than five hundred pages were produced in response to these requests, Plaintiffs note that other Depozitna related documents were produced in response to other requests, particularly Request #2 relating to the Faisal Finance Accounts. In any case, there are significant gaps in the production relating to Depozitna and Vakufska. For example:

- o No Bank statements or back-up documents have been produced for any Kadi-related accounts. Please see the attached spreadsheet, Yassin Kadi Related Accounts referenced above, for the Depozitna accounts in question.

¹ In at least one case, Kadi appears to have done so. Specifically, Kadi apparently requested all records relating to his accounts at Faisal Finance in November of 2001. Nonetheless, it appears that the production provided to plaintiffs relating to the Faisal Finance accounts is limited to the records from the Swiss investigation.

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- Beyond account information, Plaintiffs' requests sought documents relating to Kadi's investments in Depozitna and Vakufska, the timing and circumstances of his divestment, as well as the corporate entities in which his shares were held. These documents have not been produced.
- Plaintiffs' requests also sought documents relating to the appointment of Chafiq Ayadi to manage Depozitna. Various Kadi-related entities, including Muwafaq, would be in possession of documents relating to the decision to appoint Ayadi to that position. In addition, relevant documents would have been presented to other investors and regulatory authorities.
- Depozitna and or Vakufska held accounts for other Specially Designated Global Terrorists, such as Benevolence International Foundation, AHAMAA and/or al Haramain Islamic Foundation, the IIRO and Wael Jelaidan.
- There was more than one loan from Depozitna to Muwafaq, in which the funds were diverted to the personal account of Mr. Ayadi and eventually repaid by Kadi-related corporate entities. We have not received documents relating to this or other relevant loans.
- There were transactions between Depozitna and Mr. Wael Jelaidan, as well one or more loans to KA Stan, an entity in which Mr. Jelaidan held a beneficial interest.

National Commercial Bank (NCB)

Plaintiffs served numerous document requests relating to NCB, including # 4, 6, 8-14, 16, 27, 30-32, and 34. Fewer than ten pages were produced in response to those requests. There are significant gaps in the NCB-related production. Aside from bank records relating to Kadi's NCB accounts, which are addressed above and in the attached spreadsheet, our review has identified the following additional gaps.

- Documents relating to the transfer of funds from any NCB account to any Kadi-related account, including but not limited to any Muwafaq account and/or Kadi's accounts at the Islamic Investment Company of the Gulf, NCB, Banca della Svizzera Italiana, Faisal Finance, Chase Manhattan, and Union Bank of Switzerland.
- Documents relating to the transfer of funds authorized by any Muwafaq employee, officer, director, or founder, including but not limited to Kadi, Chafiq Ayadi, Salim Bin Mahfouz, Khalid Bin Mahfouz, or Mohamed Bin Mahfouz.

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- Documents relating to the establishment and operation of NCB's Islamic Banking department.

Please produce all documents relating to the issued identified above.

Investigations

We have likewise identified gaps in the productions relating to the various investigations undertaken by governments and international bodies throughout the world. These include the following:

- Saudi Arabia: While over 2,000 pages have been designated as responsive to requests # 6, 31, 32, 35, 53, 57, 58, 66-68, only two documents, Kadi 73924 and Kadi 64933, seem to relate to investigations by authorities of the Kingdom of Saudi Arabia (KSA).
 - Kadi 64933 references investigations into numerous Saudi-based accounts of Kadi. Given the scope of the referenced investigations, and fact that Kadi is a citizen of the Kingdom, it is apparent that the production relating to the investigative and regulatory activities of the Kingdom is incomplete.
 - Kadi 67923 references the Kingdom's freezing of Kadi's accounts. No other documents were produced relating to the freezing of Kadi's accounts by Saudi Arabia.
- UK: Requests # 32, 35,
 - Kadi 51452 references an investigation undertaken by Scotland Yard. We believe there was a response by Mr. Kadi to this investigation, and some follow-up by Scotland Yard. However, no other documents have been provided concerning this investigation.
 - Kadi 50784 references an Isle of Man inquiry. No other documents were produced related to this inquiry.
- Pakistan: A total of 82 pages were produced in response to Requests #36 and 37. Of note, very little was provided in regards to the arrest and legal proceedings against Amir Mehdi. For a case of such importance to Muwafaq and Kadi, involving a man hand-picked for his role by Kadi himself, there certainly must be more than 82 pages.
- US: Request #59.
 - Kadi 92939: Kadi wrote a letter to OFAC Dec 12, 2012 in which he promised to supplement the 2004 administrative record. The supplement will include

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“significant factual developments since March 2004” and changes in the evaluation of Kadi by other governments and the UN.

- Kadi 102836: In 2013, Kadi sent the new material to OFAC. We have not received these additional documents.

- Switzerland:

- Kadi 15539: “Report of Swiss Federal Police and Annexes” of December 5, 2007. The 35 page report included hundreds of pages of annexes. Annexes #81-101 are missing.
- Kadi 11858: In 2004 Mr. Kadi received access to numerous binders of material gathered by the Swiss government’s investigation. At that time (2004), this file included 17 binders of general information, 16 appendix binders, and some 40 additional binders from the Federal Criminal Investigation Department containing banking documents relating to the different accounts held by Kadi, his companies, and his close relations. The binders produced to plaintiffs labeled Enquete de Police Judiciare, were dated Nov 2007 not 2004, which means the binders produced are either new, separate binders, or are the 2004 binders with more recent supplements. Please clarify. Of the 73 binders referenced in Kadi 11858, only the following were produced:
 - Only one binder entitled General Documents, #2. The other 16 binders of general information are missing. Please produce these documents.
 - 16 appendix binders were produced.
 - In regards to the binders from the Federal Criminal Investigation Department, Nos. 1, 3, and 4 are missing.
- Kadi 26806 is a CD of files sent by the Swiss to the U.S. It is not clear whether these files have been produced or not. Please clarify.

- Turkey:

- Kadi 10395: Kadi filed suit in Turkey against the government. The government responded and included 13 exhibits in its response. These exhibits do not appear to have been produced. Please produce the complete record of this litigation.
- Kadi 10401 is a Turkish Ministry of Finance Investigation and Research Report dated Nov 11, 2004. The report mentions a Report # 2 dated March 31, 2004, prepared by Ministry of Finance Head Inspector Hamza Kacar. This report has not been produced.

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- Other: In response to request #57
 - o Kadi 93234 references a Malaysian government report on Kadi. The report has not been produced nor any other document from the Malaysian investigation.
 - o Kadi 73332: references Bahrain freezing Kadi accounts. We have not received any additional materials relating to the government of Bahrain's investigation and regulatory action.

Please produce the documents relating to the gaps identified in each of these investigations.

Kadi's Trips

Requests # 72-76 relate to trips Kadi took to Sudan, Afghanistan, Pakistan, Turkey and Albania. In Kadi 93270, Kadi told the U.S. Treasury Department that he visited each active Muwafaq project country 3-4 times a year. With the exception of Turkey, Muwafaq was active in all the above referenced countries. However, only a total of twenty-one pages were produced in response to these five requests: nine pages for Pakistan; twelve for Turkey; and no documents for the other three countries.

- o Sudan: Available information indicates that Kadi traveled to Sudan on several occasions, including in 1991 and 1993.
- o Afghanistan: Plaintiffs are aware of trips taken by Kadi to Afghanistan between 1988 and 1993.
- o Pakistan: Kadi traveled to Pakistan numerous times between 1988 and 1994.
- o Turkey: Kadi traveled to Turkey several times between 1995 and 2001.
- o Albania: Kadi traveled to Albania a number of times between 1991 and 2001

Please produce all documents relating to the aforementioned trips.

The Muwafaq Foundation

Document Requests #14-56, 83, 84, 86, 90, 92, 93, and 95-102, relate to various aspects of the Muwafaq Foundation. Rather than identify the gaps in production for each individual request, which Plaintiffs are willing to do should you wish, we have grouped the gaps in general categories, in order to make them more accessible.

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- Bank Records: Gaps in Muwafaq bank account production are contained in the attached spreadsheet, Yassin Kadi Related Accounts in Document Production.
- Plaintiffs made an estimation of the geographic spread of the Muwafaq documents produced. We estimate that approximately 80% of the documents relate to European activities of the Muwafaq Foundation, largely in support of the Bosnian operations. Albania, estimated separately, amounts to 2% of total production. Making up the remaining 18% is Muwafaq Sudan 16%, Muwafaq Pakistan 1% and Other 1%. As reflected by this statistical analysis, Muwafaq Albania, Pakistan, and Sudan are materially under-represented in the document production.
- Within the Muwafaq Bosnia production there is a gap relating to Muwafaq Zenica, particularly with respect to its warehousing and distribution reports.
- Muwafaq held meetings of its senior management. No documents have been produced relating to these meetings.
- There is very little production related to financial transactions and other support provided by Kadi-related companies to Muwafaq. Plaintiffs have identified the following entities as having financial and other relationships with the Muwafaq Foundation: Sarmany, Leemount, Muwafaq Trading, Loks Hall a/k/a Loxhall, Caravan Development a/k/a Karavan, Muwafaq Rural Development, and KA Stan.
- The production does not include relevant documents relating to transactions involving the al Baraka Turkish Finance House and Muwafaq.
- The production does not include relevant documents relating to the disposition of Muwafaq assets following its closure in the various countries where it had operations.
- The production does not include relevant documents relating to the Africa Confidential litigation, to include the documents referenced in Kadi 103595.

Please produce all documents relating to the issues identified above.

Al Haramain wal Al Masjed Al Aqsa (AHAMAA)

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AHAMAA is an Executive Order 13224 Specially Designated Global Terror entity. In response to Requests # 77-81 pertaining to Kadi's ties to AHAMAA, Kadi produced three pages in total, and these appear to have been erroneously designated as responsive to these requests in error. AHAMAA had offices in Bosnia, Pakistan, and Saudi Arabia. Please produce all documents relating to AHAMAA.

The Additional Charities

Document Requests # 84-89 reference the charities Muwafaq, AHAMAA, IIRO, al Haramain Islamic Foundation (AHIF), the Saudi Joint Relief Committee (SJRC) and the Saudi High Commission (SHC). Muwafaq and AHAMAA are addressed above. A total of five pages were produced in relation to the four additional charities. Gaps exist for each of the entities.

- IIRO: Plaintiffs are aware of an extensive relationship between Mr. Kadi, his corporate entities, Muwafaq and the IIRO. The relationships are of financial, operational and logistical natures. We are aware of contacts in Croatia, Bosnia, Albania, Saudi Arabia, Slovenia, Pakistan, Afghanistan and the United States.
- AHIF: Plaintiffs are aware of a relationship between Mr. Kadi, his corporate entities Muwafaq and the AHIF. The relationships are of financial, operational and logistical natures. We are aware of contacts in Croatia, Bosnia, and Albania.
- SJRC: Plaintiffs are aware of a relationship between Mr. Kadi, his corporate entities Muwafaq and the SJRC. The relationships are of financial and logistical natures. We are aware of contacts in Albania and Kosovo.
- SHC: Plaintiffs are aware of a relationship between Mr. Kadi, his corporate entities Muwafaq and the SHC. The relationships are of financial and logistical natures. We are aware of contacts in Bosnia and Croatia.

Please produce all documents related to the gaps identified above.

Bait al Maal al Islami (BMI)

Document Requests # 104-105 relate to BMI. No documents were produced in response to these requests, although some BMI documents were produced in response to other requests. Significantly, in Kadi 64491, one of Kadi's attorneys represented to the United Nations in 2004 that he had reviewed thousands of pages of BMI-related documents. Please produce these documents as well as any others related to BMI.

Osama Bin Laden

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Requests #90-94 involve Kadi's and Muwafaq's relationships with Osama Bin Laden (OBL), his family, and his entities. Fifty four pages were produced in response to these requests. We are aware of at least two gaps in the document production relating to OBL.

- Kadi had a business relationship with OBL in the Sudan related to the production and marketing of sesame seeds as well as other agricultural products.
- Kadi, his corporate entities, and/or Muwafaq had a relationship with Wadi al Aqiq, an OBL company.

Please produce all documents relating to the issues identified above.

Wael Jelaidan

Requests #95-96 involve Kadi's and Muwafaq's relationships with Wael Jelaidan. Forty seven pages were produced in response to these requests. The extent of the production to date does not comport with the extensive financial, business, and personal relationships Kadi maintained with Jelaidan over a period of several decades. Gaps in the production include the following areas:

- All loans to Jelaidan, including but not limited to those in Pakistan, Afghanistan, Austria, and Bosnia.
- All financial transactions with Jelaidan, including but not limited to those in the Philippines, Austria, Switzerland, Turkey, and Saudi Arabia.
- The relationship between Jelaidan, Mr. Kadi and the Muwafaq Foundation in Pakistan, Croatia, Bosnia, Albania, Sudan, and Kosovo.
- The relationship between Kadi, Jelaidan and corporate entities including but not limited to Saudi Abrar, Caravan Development Group, Cavallo Ltd, Euro Invest Ltd, KA Stan, Karavan Construction Co., Leemount, Lojal, Maram Seyahat aka Maram Travel, and Sara Co Ltd.
- The relationship between Jelaidan, Kadi and non-profit entities including but not limited to, AHAMAA, Dar al Walidain School, IIRO, Lajnat al Dawa, King Abdelaziz University, Makhtab al Khidmat, Muslim World League, Rabita Trust, Risala School, Saudi Joint Relief Committee, Saudi Red Crescent and the Third World Relief Agency.
- Documents relating to business proposals, feasibility studies, or business trips Jelaidan undertook on behalf of Kadi or his corporate entities.

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- All documents provided by Jelaidan to Kadi as referenced in Kadi 4272 and Kadi 102988

Please produce all documents relating to the issues identified above.

Khalid Bin Mahfouz

Document Request #7 pertains to any relationship between Kadi and Khalid Bin Mahfouz. Four pages of press accounts were produced. Here again, the extent of the production to date does not comport with the scope of Kadi's long-term relationship and range of dealings with Khalid Bin Mahfouz. Gaps in the production include the following topics:

- The involvement of Bin Mahfouz in the founding of Muwafaq.
- Bin Mahfouz's role in the financing of Muwafaq, including Muwafaq Sudan and Muwafaq Pakistan.
- Bin Mahfouz's role in the transfer of funds from any NCB account to any Muwafaq account or any Kadi-related account, including but not limited to Kadi's accounts at the Islamic Investment Company of the Gulf, National Commercial Bank, Banca della Svizzera Italiana, Faisal Finance, Chase Manhattan, and Union Bank of Switzerland.

Please produce all documents relating to Khalid Bin Mahfouz, including any documents relating to the issues identified above.

Relations With Other Entities

Document requests # 97-98 relate to a list of entities on Attachment A to the document requests. Only twenty four pages were produced in response to those requests. While we request that Kadi compile and produce all documents relating to the entities identified on Attachment A, we would ask that he address the following entities on a priority basis. Identifying information is provided for each name.

- Albanian International Investment and Development Co. aka ALINTID: an Albanian company
- Al Shamal Islamic Bank: a Sudanese bank and investment house
- Arab Albanian Islamic Bank: aka United Bank, an Albanian bank
- BIM Birlesik Magazalar AS: a Turkish company
- Cavallo, Ltd: an entity in which Mr. Kadi had a beneficial interest.
- Jeddah Holding Co. for Development: an entity in which Mr. Kadi had a beneficial interest.

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- KA Stan: an entity in which Mr. Kadi and Mr. Jelaidan had a beneficial interest.
- Karavan aka Caravan Development Corporation, Ltd: an entity in which Mr. Kadi had a beneficial interest.
- Leemount, Ltd.: an entity in which Mr. Kadi had a beneficial interest.
- Loks-Holl Co. aka Loxall; Lox Hall; Loxall SH PK: Albanian and Sudan entities in which Mr. Kadi had a beneficial interest.
- Maram Co.: aka Maram Travel, a company with offices in Turkey and Yemen
- Mercy International: aka Mercy International Relief Agency, an international charity
- Sarmany, Ltd.: aka Yassin A. A. Kadi Sarmny Ltd., an entity in which Mr. Kadi had a beneficial interest.
- Shifa International Hospitals, Ltd: an entity in which Mr. Kadi had a beneficial interest.
- Solano, Ltd.: an entity in which Mr. Kadi had a beneficial interest.
- Sub-Saharan International Development Organization: a Sudan based charity
- Yassin Kadi Establishment: an entity in which Mr. Kadi had a beneficial interest.

Please produce all documents relating to these entities, and the other entities identified on Attachment A.

Relations With Other Individuals

Document Requests # 99-100 relate to a list of individuals on Attachment B to the document requests. Only two documents were produced. Here again, while we request that Kadi compile and produce all documents relating to the individuals identified on Attachment B, we would ask that he address the individuals listed below on a priority basis. Identifying information is provided for each name.

- Amir Mehdi: a Muwafaq employee in Pakistan.
- Amjad Awad: a Muwafaq employee in Croatia/Bosnia
- Mahmoud A. Taiba: a Saudi businessman and a charity founder
- Mahmoud Mehdi: a Muwafaq employee in Pakistan.
- Mamdouh Mohammed Salim (a/k/a Abu Hajer): an employee of OBL and an owner of Maram
- Mohamed Ahmed bin Mahfouz: an officer of Muwafaq and a Saudi businessman
- Mohamed Loay Bayazid: an employee of OBL and an owner of Maram
- Saleh Sulafaldin Mohamed: a Muwafaq employee in Sudan
- Sheikh Abdul Majid al Zindani: a Yemeni cleric and a university founder
- Siraj el Din Bari: a Muwafaq employee in Sudan
- Sulaiman al Ali: an officer, consultant and employee of IIRO

Please produce all documents relating to these individuals, and the other individuals identified on Exhibit B.

Privileged Redactions

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Numerous documents in the production are either completely redacted or portions of the documents are redacted. Some are noted as Privileged and others noted as Redacted. Please produce a privilege log, and explain the rationale for the assertions of privilege and redactions. Some examples follow.

- 45871-45885: Redacted portions relate to transfers to Mr. Kadi's account in Albania.
- 70113-70114: Redacted portions of bank records
- 11936-11937: List of entities

FOIA Documents

On Dec 26, 2013 Magistrate Judge Maas ruled that all FOIA requests, correspondence and responses must be produced. Please produce all such documents.

We hope to come to a resolution of our concerns regarding the above gaps in Mr. Kadi's document production and we look forward to your response.

Sincerely,

Kreindler & Kreindler

By:


Andrew J. Maloney

cc: Jerry Goldman, Esq.
Sean Carter, Esq.
Scott Tarbutton, Esq.
Robert Haefele, Esq.
James P. Kreindler, Esq.

Attachments:

- o Yassin Kadi Related Accounts in Document Production (PDF)
- o Yassin Kadi Related Accounts in Document Production (Excel)
- o Example of January 10 1992 Bank Statement and Back Up